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OCEAN DUMPING AMENDMENTS ACT OF 1984

JULY 31, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H.R. 4829]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 4829) to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are shown in the bill as reported from the Committee on Merchant Marine and Fisheries, with the matter proposed to be stricken enclosed in boldface brackets and the matter proposed to be inserted shown in boldface roman.

INTRODUCTION

H.R. 4829, as reported by the Committee on Merchant Marine and Fisheries, was sequentially referred to the Committee on Public Works and Transportation. The Bill amends Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (the MPRSA).

Title I of the MPRSA provides for the regulation of the dumping of materials into the ocean. Except as authorized by a permit issued pursuant to section 102 or 103 of Title I, no person may transport any material from the United States for the purpose of dumping it into ocean waters. Without a permit, no material may be transported from any location for the purpose of dumping it into the ocean where a vessel or aircraft registered in the United States, or flying the United States flag, is involved, or where a United States Department, agency, or instrumentality is involved. Also, except as permitted under section 102, no person may dump any material transported from a location outside the United States into the territorial sea, or into the 12-mile contiguous zone to the extent it will affect the territorial sea or the territory of the United States.

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Under section 102, the Administration of the Environmental Protection Agency (the Administrator) regulates the dumping of materials other than dredged material. Dredged material, under section 103, is regulated by the Secretary of the Army (the Secretary).

The Administrator is authorized to issue permits for dumping where the Administrator determines that the dumping will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator is to establish and apply criteria for reviewing and evaluating permit applications.

The Administrator is authorized in section 102(c) to designate recommended sites or times for dumping and, when found necessary to protect critical areas, is required to designate sites or times within which dumping is prohibited.

Section 103 of Title I authorizes the Secretary to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare or amenities, or the marine environment, ecological health, welfare, or amenities, or the marine enviroment, ecological systems, or economic potentialities. The Secretary must apply the criteria established by the Administrator under section 102(a).

The Secretary makes an independent determination as to the need for the dumping, based upon an evaluation of the potential effects of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce. An independent determination is also made as to other possible methods of disposal and appropriate locations for the dumping. In considering appropriate locations, the Secretary is directed to utilize, to the extent feasible, recommended sites designated by the Administrator.

Prior to issuing a permit, the Secretary must first notify the Administrator. When the Administrator disagrees with the Secretary's determination with regard to the section 102(a) criteria, or with regard to a site where dumping is prohibited under section 102(c), the determination of the Administrator prevails. Provision is made, however, for a waiver. When the Secretary finds that no economically feasible method or site is available for the deposition of the dredged material, a waiver is requested. The Administrator must grant the waiver within 30 days unless the Administrator finds that the dumping will result in an unacceptably adverse impact on municipal water supplies, shellfish beds, wildlife, fisheries, or recreational areas. Finally, in connection with Federal projects involving dredge material, the Secretary may, in lieu of the permit procedure, authorize ocean dumping through regulations which incorporate the same requirements which would apply in the case of permits issued by the Corps.

H.R. 4829, as reported by the Merchant Marine and Fisheries Committee is very similar to the version of H.R. 1761 which was agreed to by the Committee on Merchant Marine and Fisheries and Public Works and Transportation after being sequentially referred to and reported by the latter Committee. A full description of the Public Works and Transportation Committee's actions on H.R. 1761 is contained in House Report 98–200, Part 2.

H.R. 1761 passed the House on October 31, 1983, but has not been acted upon by the Senate. H.R. 1761 is also very similar to H.R. 6113, which passed the House in the 97th Congress. The amendments to Title I of the MPRSA which were included in H.R. 6113, which also appeared in H.R. 1761, and which now appear in H.R. 4829, include the following:

Wetlands are added to the list of factors to be considered when assessing the effects of dumping.

The discretionary authority of the Administrator to designate recommended dumping sites is made mandatory. This is designed to assure that adequate environmental studies are performed for all sites which are either being used or are proposed to be used for dumping.

In designating sites, the Administrator is directed to take into account a number of factors, including types and quantities of wastes, the ability of waters to disburse or neutralize the wastes, the ecological importance of the site, and the immediate and cumulative effects on human health and on the adjacent ecosystems.

The Administrator is required to periodically monitor, or cause to be monitored, the effects of the dumping of materials at sites. If that monitoring indicates that a site is no longer suitable for dumping, the dumping must either be limited or terminated.

The permit conditions provision in section 104 of the Act is amended to provide authority for the Administrator and the Secretary to impose on permittees any special provisions deemed necessary to minimize the harm from dumping or necessary for monitoring and surveillance.

The Administrator and Secretary are directed to collect application fees to cover the reasonable administrative costs incurred in processing permits.

The Administrator and the Secretary are to adhere to and apply the requirements of the London Dumping Convention that are binding upon the United States.

Existing dump sites being utilized pursuant to interim designations or court orders are "grandfathered" by providing that existing law will continue to apply until completion of site designation or denial of site designation, with the exception of the provisions relating to permit conditions, writs of mandamus, site designation schedules, and authorization of appropriations (an exception was added in H.R. 1761 for monitoring requirements; and several new exceptions have been added in H.R. 4829, including exceptions for radiological, chemical, and biological warfare agents and for high level radioactive wastes; for municipal sludge which is generated by sewerage authorities that are not in compliance with the pretreatment provisions of the Federal Water Pollution Control Act or municipal sludge for which a land-based disposal alternative is available; for the penalty provisions relating to false statements and misrepresentation; for the Administrator's annual reporting requirements; and for the new provisions relating to the New York Bight Apex).

A mandamus provision is included permitting legal actions to compel site designation.

E.P.A. is directed to establish, and submit to Congress within 6 months, a schedule for completing the study and designation or denial or designation of all sites being used under an interim designation or under a court order.

Provisions which first appeared in H.R. 1761, and which also appear in H.R. 4829, include the following:

The Administrator and the Secretary are directed to establish and maintain quality assurance programs to insure the validity, accuracy and sufficiency of information submitted to or used by them in connection with applications for permits and other activities under the MPRSA.

The Writs of Mandamus provision is to apply only to sites for which site designation proceedings are not complete and at which dumping is taking place. This is designed to preclude the use of mandamus by an applicant to force designation of a new area.

A person who knowingly makes any false statement or certification in an application, record, report, or other document filed or maintained under the MPRSA or who falsifies or tampers with a monitoring or testing device to be punishable by a fine of not more than $10,000 or by imprisonment for not more than 6 months.

The Secretary and the Administrator are to report annually on their activities under the MPRSA.

New provisions in H.R. 4829, as reported by the Committee on Merchant Marine and Fisheries, include the following:

No ocean dumping permit may be issued for radiological, chemical, and biological warfare agents or for high level radioactive wastes.

No permit may be issued or renewed that authorizes the dumping, or the transportation for purposes of dumping, after December 31, 1986, of municipal sludge, unless the sewerage authority or other unit of State or local government operating the plant at which the municipal sludge is generated is in compliance with all requirements of the Federal Water Pollution Control Act relating to requirements for an effective and comprehensive pretreatment program and unless the Administrator, in consultation with the governor of the State in which the unit is located, finds that a suitable land-based alternative to the ocean disposal of the sludge is not currently available.

The Administrator is directed to prescribe by regulation and collect a special fee for permits issued for dumping to recover the costs incurred, or expected to be incurred, in undertaking activities directly associated with the issuance of permits (including site designations), the undertaking of measures to determine compliance with permit terms, the assessment of the direct effects of the dumping, and surveillance and enforcement activities undertaken by Federal agencies.

A finding is made that the New York Bight Apex (the Apex) is no longer a suitable location for the ocean dumping of municipal sludge. "Municipal sludge" means solid, semisolid, or liquid waste generated by a wastewater treatment plant of a sewerage authority or other unit of State or local government or a privately owned or operated wastewater treatment plant which treats predominately domestic sewage.

No person may apply for a permit in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority. The term "eligible authority" means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

The Administrator may not issue or renew any permit under Title I of MPRSA that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after the last day of the eighteen-month period beginning on the date of the enactment of this section or after the day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a new site designated under the Act other than at a site located within the Apex, whichever date occurs first.

Within three years after the date of the enactment of the Bill, the Administrator is to prepare, and submit to the Congress, a New York Bight Apex Restoration Plan, which shall:

(A) Identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout and dumping that are affecting the water quality and marine resources of the Apex;

(B) Identify those uses in the Apex that are being inhibited because of those inputs;

(C) Determine the fate of the contaminants from those inputs and their effect on the marine environment;

(D) Identify technologies and management practices, and determine the costs, necessary to control those inputs;

(E) Identify impediments to the cleanup of those inputs;

(F) Devise a schedule of economically feasible projects to implement the controls identified under subparagraph (D) and to remove the impediments identified under subparagraph (E); and

(G) Develop recommendations for funding and coordinating the various Federal, state and local government programs necessary to implement the projects devised under subparagraph (F).

Within six months after the date of enactment the Administrator is to submit to the Congress a detailed schedule (and the associated funding requirements) for completing the Apex Restoration Plan.

Within one year after the date of enactment the Administrator is to prepare and submit to Congress a report on the technological and economic feasibility of establishing and implementing quality standards for the disposal of municipal sludge through ocean or land-based methods. The quality standards shall set forth maximum permissible concentrations of heavy metals, PCBs, persistent plastics, microbiological constituents, pathogens, and any other material found in municipal sludge regarding which the Administrator considers the establishment of a maximum permissible concentration to be warranted.

There are authorized to be appropriated to the EPA for purposes of preparing the Apex Restoration Plan, $2 million for fiscal year 1985, $2 million for fiscal year 1986, and $1 million for fiscal year 1987.

There is authorized to be appropriated to the EPA $40 million in each fiscal year beginning in fiscal year 1986 for projects to improve the water quality of the Hudson-Raritan Estuary and the New York Bight consistent with the Apex Restoration Plan.

The Administrator is directed to end the dumping of harmful municipal sludge into ocean waters as soon as possible after the date of

the enactment, except that in no case may any dumping of harmful municipal sludge occur after the last day of the 18-month period beginning on the date of enactment, and new applicants will not be permitted to dump harmful municipal sludge during that 18-month period. The term "harmful municipal sludge" means municipal sludge the ocean dumping of which may be harmful to human health, welfare, amenities, or the marine environment, ecological systems, and economic potentialities. Municipal sludge shall be considered to be harmful, for purposes of this section, if it fails to meet the environmental impact criteria of the EPA's regulations issued under Title I of the MPRSA.

The Committee on Public Works and Transportation concurs in the amendments to H.R. 4829 adopted by the Committee on Merchant Marine and Fisheries, and has adopted the following two additional amendments to the Bill:

An amendment to provide that the Administrator is authorized to reimburse eligible authorities who are currently disposing of sewage sludge at the 12-mile New York Bight Apex site for the incremental costs associated with transporting that material to the 106-mile site designated by the EPA.

An amendment clarifying that the dumping of industrial wastes into the waters covered by the MPRSA is to be prohibited except in certain limited cases for research purposes and for emergencies posing an unacceptable risk to human health.

Compliance With Clause 2(l) of Rule XI of the Rules of the House of Representatives

(1) With reference to clause 2(l)(3)(A) of Rule XI of the Rules of the House of Representatives, the Subcommittee on Investigations and Oversight did not hold hearings on the subject matter of the legislation. The Subcommittee on Water Resources did hold hearings on July 21, 1983, on H.R. 1761 and on the subject matter of this legislation.

(2) With respect to clause 2(l)(3)(B) of Rule XI of the Rules of the House of Representatives, H.R. 1761, as reported, does not provide new budget authority or increase tax expenditures. Accordingly, a statement pursuant to Section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of Rule XI of the Rules of the House of Representatives, the Committee has received a report on H.R. 4829 prepared by the Congressional Budget Office under Section 403 of the Congressional Budget Act. The report is as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 31, 1984.

Hon James J. Howard,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4829, the Ocean Dumping Amendments Act of 1984.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4829.
2. Bill title: Ocean Dumping Amendments Act of 1984.
3. Bill status: As ordered reported by the House Committee on Public Works and Transportation, July 31, 1984.
4. Bill purpose: H.R. 4829 amends Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 and authorizes appropriations of $4.25 million for each of the fiscal years 1985 through 1987 to the Environmental Protection Agency (EPA) for administering the title. Additional appropriations totaling $5 million over the same period are authorized for a study of the New York Bight Apex. The bill also authorizes appropriations of $40 million in each fiscal year beginning in 1986 for projects related to the Bight. Finally, H.R. 4829 would authorize necessary appropriations for the EPA to reimburse affected communities for the additional costs they may incur in complying with Section 11 of the bill.

H.R. 4829 would also require the EPA to collect permitting fees and both EPA and the Army Corps of Engineers to collect application fees in amounts equal to certain related agency costs.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1985	1986	1987	1988	1989
Estimated authorization level	32.6	73.9	74.2	70.2	71.6
Less: Estimated collections from permit fees	−2.5	−2.1	−2.1	.....	.....
Estimated net authorization	30.1	71.8	72.1	70.2	71.6
Estimated outlays	23.2	67.3	72.1	71.1	71.9

Estimated collections do not include fees for dredging material permits or sums that might be collected by the EPA for costs incurred by other federal agencies.

The costs of this bill fall within budget function 300.

Basis of estimate: The authorization levels are those stated in the bill. For purposes of this estimate, it is assumed that H.R. 4829 will be enacted by September 1984 and that all amounts authorized will be appropriated by early in each fiscal year. Outlays are estimated based on historical spending patterns, spending patterns for similar programs, and information from the EPA.

The annual authorization of $40 million would provide funds to the EPA to be used for the Apex. According to the EPA, this money would most likely be used to provide grant money to affected state or local authorities.

Section 11 of the bill would ban all dumping of sewage sludge at the New York Bight Apex 12-mile site within 18 months of enactment. All municipalities that are able to qualify for an EPA permit would be forced to use the 106-mile site. Estimates of the costs of moving to this site vary widely. The EPA estimates a total additional cost to

all nine affected municipalities of $25 million annually at 1984 prices ($11 million of which would be incurred by New York City). New York City's most recent estimate of that city's additional cost is over $16 million annually. New York City accounts for approximately one-half of the sewage sludge dumping at the site. The smaller communities estimate that they will each have to pay additional annual amounts ranging from $200,000 (for the smallest, Linden-Roselle) to $4.5 million (for the largest, Passaic Valley). Section 11 would authorize the EPA to reimburse these communities for their annual incremental costs of dumping at the 106-mile site. For purposes of this estimate, CBO has projected the total amount of the reimbursement to be about $26 million in 1985, with subsequent increases of about 5 percent annually.

Receipts from permitting fees and fees to cover the costs of processing applications are estimated on the basis of information supplied by the EPA and other federal agencies. According to the EPA, about $2 million each year is spent on permitting activities such as site designation, compliance monitoring, assessment of dumping effects and enforcement. If these costs were fully charged to the 21 parties now dumping industrial or municipal sludge, the annual fee would average approximately $95,000. According to the EPA, costs have not been broken down by the activities or functions identified by the Committee. It is possible that in the future other federal agencies that perform functions related to ocean dumping oversight may elect to have the EPA recoup their costs as well. The U.S. Coast Guard estimates that it will spend approximately $0.4 million annually to perform its monitoring of the 106-mile site, which is now the only site designated by the EPA for municipal sludge dumping. The National Oceanographic and Atmospheric Administration estimates its pollution assessment costs to be approximately $1 million the first year, with likely decreases in subsequent years. If these two agencies were to be reimbursed through the permitting fee, the additional average cost per permittee would be about $67,000 a year. These averages are derived by assuming that the number of dumpers remains at 21. If the number changes, costs per user will change correspondingly. The Corps of Engineers would also be required to collect application fees, but sufficient data to estimate fee receipts are not currently available.

6. Estimated cost to State and local governments: In addition to the reimbursable costs of transporting sludge to the 106-mile site, each of the nine municipalities would now have to pay application and permit fees. (None of the nine currently has a permit; they are all dumping at the expired 12-mile site under court order.) It is estimated that the total permit cost to these communities (for EPA activities) would be approximately $4.9 million over the period 1985 through 1989.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 14, 1984, CBO prepared a cost estimate for H.R. 4829, as ordered reported by the House Committee on Merchant Marine and Fisheries. That version of the bill did not authorize appropriations for reimbursing affected communities for the additional costs of dumping at the 106-mile site. Estimated authorization levels and outlays were correspondingly lower in that earlier estimate.

9. Estimate prepared by: Deb Reis.
10. Estimate approved by:

C.G. NUCKOLS
(For James L. Blum, Assistant Director for Budget Analysis).

(4) With reference to clause 2(l)(3)(D) of Rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following information is provided: The effect of carrying out H.R. 4829, as reported, should be negligible with respect to prices and costs in the operation of the national economy.

COST OF LEGISLATION

Clause 7(a) of Rule XIII of the Rules of the House of Representatives requires a statement of the estimated costs of the United States which would be incurred in carrying out H.R. 4829, as reported, in fiscal year 1984, and each of the following five years. However, under paragraph (d) of clause 7, its provisions do not apply when the Committee has received a timely report from the Congressional Budget Office.

COMMITTEE ACTION AND VOTE

The Committee, in compliance with Rule XI(2)(l)(2)(A) of the Rules of the House of Representatives, reports favorably the bill H.R. 1761, as reported by the Committee on Merchant Marine and Fisheries, with two amendments. The Committee ordered the bill reported by voice vote.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972

* * * * * * *

DEFINITIONS

SEC. 3. For the purposes of this Act the term—

(a) * * *

(b) "Ocean waters" means those waters, *and the subjacent areas*, of the open seas lying seaward of the base line from which the territorial sea is measured, as provided for in the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606; TIAS 5639).

(c) "Material" means matter of any kind or description, including, but not limited to, dredged material, solid waste, incinerator residue, garbage, sewage, [sewage] *municipal* sludge, munitions, radiological,

chemical, and biological warfare agent, radioactive materials, chemicals, biological and laboratory waste, wreck or discarded equipment, rock, sand, excavation debris, and industrial, municipal, agricultural, and other waste; but such term does not mean sewage from vessels within the meaning of section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1322). Oil within the meaning of section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), shall be included only to the extent that such oil is taken on board a vessel or aircraft for the purpose of dumping.

* * * * * * *

(m) "Monitoring" means the systematic, time-series observation of materials, contaminants, or pertinent components of the marine ecosystem over a period of time sufficient to determine the existing levels, trends, and natural variations of measured components in the water column, sediments, and biota for the purpose of ensuring that immediate harmful effects of dumping are detected, and cumulative and long-term effects are detected, forecasted, and evaluated. Observations may include, but are not limited to, the following procedures, depending upon the type of waste to be dumped and the characteristics of the site (1) seasonal sampling and analyses of the infaunal community and sediment for purposes of characterizing structural composition and size distribution; (2) sampling and analyses of sediment and selected organisms to determine levels of hydrocarbon, trace metals, and chemical and pathogenic contaminants identified as constituents of wastes to be dumped; (3) profiling measurements of standard oceanographic parameters including dissolved oxygen, salinity, and water temperature; (4) characterization of large-scale surface topography and megafaunal structure and composition; and (5) sampling and analyses to determine levels of nutrients and organic carbon.

(n) "Municipal sludge" means solid, semisolid, or liquid waste generated by a waste water treatment plant of a sewerage authority or other unit of State or local government or a privately owned or operated waste water treatment plant which treats predominantly domestic sewage.

TITLE I—OCEAN DUMPING

* * * * * * *

ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. (a) (*1*) Except in relation to dredged material, as provided for in section 103 of this title[, and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, for which no permit may be issued,] , *and except a provided in paragraphs (2) and (3)*, the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, or in the case of a vessel or aircraft registered in the United States or flying the United States flag, for the transportation from a location outside the United States, of material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 101(b), where the Administrator deter-

mines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to the following:

(A) The need for the proposed dumping.

(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines [and beaches], *beaches, and wetlands.*

* * * * * * *

(2) No permit may be issued under this title in relation to the following:

(A) Radiological, chemical, and biological warfare agents.

(B) High-level radioactive waste.

(3) No permit may be issued or renewed under this title that authorizes the dumping, or the transportation for purposes of dumping, after December 31, 1986, of municipal sludge, whether or not the sludge is subject to section 104A, unless—

(A) the sewerage authority or other unit of State or local government operating the plant at which the municipal sludge is generated is in compliance with all requirements of sections 307 (b) and 402(b)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1317(b) and 1342(b)(8), relating to requirements for an effective and comprehensive pretreatment program); and

(B) the Administrator, in consultation with the Governor of the State in which the unit is located, finds that a suitable land-based alternative to the ocean disposal of the sludge is not currently available.

* * * * * * *

[(c) The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.]

(c)(1) The Administrator shall designate sites at which materials may be dumped pursuant to this section and, after consultation with the Secretary, at which materials may be dumped pursuant to section 103; except that no site may be designated by the Administrator under this subsection until the Administrator undertakes and completes an analysis of the characteristics of the site and its suitability for dumping and of the environmental effects which will likely result from dumping. In undertaking such an analysis of each site, the Administrator shall take into consideration the criteria established pursuant to subsection (a) and shall specifically take into account the following factors:

(A) The types and quantities of wastes and pollutants projected to be deposited in, and adjacent to, the site from dumping and other sources.

(B) The ability of the waters at the site to disperse, detoxify, or neutralize the materials.

(C) The importance of the site to the surrounding biological community, including the presence of breeding, spawning, nursery or foraging areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of marine organisms.

(D) The immediate and cumulative effects on human health and on the ecosystem adjacent to the site and the persistent effects on the ecosystem within the site.

Nothing contained in this paragraph shall be construed to limit the authority of the Secretary under section 103.

(2) The Administrator shall—

(A) periodically monitor, or cause to be monitored, the effects of the dumping of materials at or adjacent to each site for which the Administrator determines, on the basis of the characteristics of the site and the materials to be dumped, that such monitoring is necessary to accomplish the purposes of this title; and

(B) at the close of the third year after the site designation and at every three-year interval thereafter until such time as the designation is terminated, estimate the extent of the dumping and other waste inputs that will occur in and adjacent to each site during the next three-year period.

(3) If at any time the Administrator, on the basis of the factors taken into account under subparagraphs (A) through (D) of paragraph (1), or on the basis of the monitoring or estimates, or both, required under paragraph (2), determines that the site is no longer suitable for such dumping, the Administrator shall—

(A) limit dumping at the site to certain materials or at certain times or both; or

(B) suspend or terminate the designation of the site under paragraph (1).

In making a determination under the preceding sentence that a site is no longer suitable for dumping pursuant to section 103, the Administrator shall consult with the Secretary.

* * * * * * *

CORPS OF ENGINEERS PERMITS

SEC. 103. (a) * * *

(b) In making the determination required by subsection (a), the Secretary shall apply those criteria, established pursuant to section 102(a), relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal and as to appropriate locations for the dumping. In considering appropriate locations, he shall, to the extent feasible, utilize the [recommended] sites designated by the Administrator pursuant to section 102(c).

* * * * * * *

PERMIT CONDITIONS

SEC. 104. [(a) Permits issued under this title shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.]

(a) Permits issued under this title shall designate and include—

(1) the type of material authorized to be transported for dumping or to be dumped;

(2) the amount of material authorized to be transported for dumping or to be dumped;

(3) the location where such transport for dumping will be terminated or where such dumping will occur;

(4) the length of time for which the permits are valid and their expiration date;

(5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, to minimize the harm from dumping, which may include measures that the permittee must take to plan, develop, acquire, or implement, as appropriate —

(A) alternatives for the disposal of the material,

(B) processes for reducing or eliminating any contaminants in the material, or

(C) processes for recycling the material;

(6) after consultation with the Secretary of the Department in which the Coast Guard is operating, any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, for the monitoring and surveillance of the transportation or dumping; and

(7) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.

[(b) The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this title as he deems appropriate.]

(b)(1) The Administrator of the Secretary, as the case may be, shall prescribe and collect from the applicant, unless the applicant is a Federal agency, an application fee in an amount commensurate with the reasonable administrative costs incurred or expected to be incurred by the Administrator or Secretary in processing the permit. The application fee shall be deposited to the principal appropriation account or accounts used to carry out the processing of permits under this title.

(2)(A) The Administrator shall prescribe by regulation and collect a special fee for permits issued under section 102 to recover the costs incurred, or expected to be incurred, in undertaking activities directly associated with the issuance of permits (including site designations), the undertaking of measures to determine compliance with permit terms, the assessment of the direct effects of the dumping, and surveillance and enforcement activities undertaken by Federal agencies. The special fee shall be deposited to the principal appropriation account or accounts used to carry out site designation, site and compliance monitoring, surveillance and enforcement, and other activities directly associated with the issuance of permits.

(B) The funds collected under subparagraph (A) may be transferred in part to other Federal agencies for the costs incurred or expected to be incurred in connection with activities described in subparagraph (A).

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(e)(1) The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this title to provide such information as he may consider necessary to review and evaluate such application.

(2) The Administrator and the Secretary shall establish and maintain quality assurance programs to ensure the validity, accuracy, and sufficiency of information submitted to or used by the Administrator or the Secretary in connection with applications for permits or other activities undertaken pursuant to this title. Such quality assurance programs shall encompass, but not be limited to, the design, implementation, and analysis of sampling, testing, and monitoring procedures and results. The Administrator and the Secretary shall each individually report annually, in conjunction with the report required under section 112 of this title, on the status of implementation of this subsection: Provided, however, That the first such quality assurance report shall be submitted to the Congress no later than two hundred and seventy days after the effective date of this subsection.

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(j) The Administrator or Secretary, as the case may be, may prescribe such reporting requirements as he or she deems appropriate with regard to actions taken by permittees pursuant to permits issued under this title.

SPECIAL PROVISIONS REGARDING THE NEW YORK BIGHT APEX

SEC. 104A. (a) For the purposes of this section—

(1) The term "Apex" means the New York Bight Apex consisting of the ocean waters of the Atlantic Ocean westward of 73 degrees 30 minutes west longitude and northward of 40 degrees 10 minutes north latitude.

(2) The term "Apex site" means that site within the Apex at which the dumping of municipal sludge occurred before October 1, 1983.

(3) The term "eligible authority" means any sewerage authority or other unit of State or local government that on November 2, 1983, was authorized under court order to dump municipal sludge at the Apex site.

(b) No person may apply for a permit under this title in relation to the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex unless that person is an eligible authority.

(c) The Administrator may not issue, or renew, any permit under this title that authorizes the dumping of, or the transportation for purposes of dumping, municipal sludge within the Apex after whichever of the following days first occurs:

(1) The last day of the eighteen-month period beginning on the date of the enactment of this section.

(2) The day determined by the Administrator to be the first day on which municipal sludge generated by eligible authorities can reasonably be dumped at a site designated under section 102 other than a site within the Apex.

(d) (1) Within three years after the date of the enactment of this section, the Administrator shall prepare, and submit to the Congress a New York Bight Apex Restoration Plan. In preparing the plan, the Administrator shall hold public hearings in order to obtain the views and comments of interested persons.

(2) The New York Bight Apex Restoration Plan required to be prepared under paragraph (1) shall—

(A) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping that are affecting the water quality and marine resources of the Apex;

(B) identify those uses in the Apex that are being inhibited because of those inputs;

(C) determine the fate of the contaminants from those inputs and their effect on the marine environment;

(D) identify technologies and management practices, and determine the costs, necessary to control those inputs;

(E) identify impediments to the cleanup of those inputs;

(F) devise a schedule of economically feasible projects to implement the controls identified under subparagraph (D) and to remove the impediments identified under subparagraph (E); and

(G) develop recommendations for funding and coordinating the various Federal, State, and, local government programs necessary to implement the projects devised under subparagraph (F).

Within six months after the date of the enactment of this section, the Administrator shall submit to the Congress a detailed schedule (and the associated funding requirements) for completing the restoration plan required by this subsection.

(e) Within one year after the date of the enactment of this section, the Administrator shall prepare and submit to Congress a report on the technological and economic feasibility of establishing and implementing quality standards for the disposal of municipal sludge through ocean or land-based methods. The quality standards shall set forth maximum permissible concentrations of heavy metals, PCB's, persistent plastics, microbiological constituents, pathogens, and any other material found in municipal sludge regarding which the Administrator considers the establishment of a maximum permissible concentrations to be warranted.

(f) There are authorized to be appropriated to the Environmental Protection Agency, for purposes of preparing the New York Bight Apex Restoration Plan required under subsection (d)(1), the following amounts:

(1) $2,000,000 for fiscal year 1985.
(2) $2,000,000 for fiscal year 1986.
(3) $1,000,000 for fiscal year 1987.

(g) There is authorized to be appropriated to the Environmental Protection Agency $40,000,000 in each fiscal year beginning in fiscal year 1986 for projects to improve the water quality of the Hudson-Raritan Estuary and the New York Bight consistent with the plan under subsection (d)(1) of this section. These funds may be transferred to other Federal, State, and local agencies to fund projects within the Administrator's discretion.

(h) The Administrator is authorized to reimburse an eligible authority for the amount by which the cost of transporting and dumping municipal sludge generated by such authority at a site designated under section 102 other than a site within the Apex, exceeds the cost of transporting and dumping such sludge at the Apex site. There is authorized to be appropriated such sums as may be necessary to carry out this subsection for fiscal years beginning after September 30, 1984.

PENALTIES

SEC. 105(a) * * *

(b)(1) In addition to any action which may be brought under subsection (a) of this section, a person who knowingly violates this title, regulations promulgated under this title, or a permit issued under this title shall be fined not more than $50,000, or imprisoned for not more than one year, or both.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this title or who falsifies, tampers with, or knowlingly renders inaccurate any monitoring, sampling, or testing device or method required to be maintained or implemented under this title, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both. For purposes of this section, the term "person" shall mean, in addition to the definition contained in section 3(e) of this title, any responsible corporate officer.

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(g)(1) * * *

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(5) Upon application of any person, the district courts of the United States shall have jurisdiction to issue writs of mandamus directing the Administrator to implement in a timely manner the site designation provisions of this title for those sites for which site designation proceedings are incomplete and at which dumping is authorized pursuant to permits or regulations issued under sections 102 and 103. Nothing in this paragraph is intended to affect the conduct of any dumping which is authorized by permits or regulations issued under this title pending the completion of site designation proceedings. Para-

graph (4) of this subsection shall not apply to any suit brought pursuant to this paragraph.

[(5)] *(6)* The [injunctive] relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Administrator, the Secretary, or a State agency).

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RELATIONSHIP TO OTHER LAWS

SEC. 106. (a) * * *

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(g) To the extent that they may do so without relaxing the requirements of this title, the Administrator and the Secretary shall adhere to and apply the requirements of the Convention, including its annexes, that are binding upon the United States.

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SEC. 111. There are hereby authorized to be appropriated not to exceed $3,600,000 for fiscal year 1973, not to exceed $5,500,000 for each of the fiscal years 1974 and 1975, not to exceed $5,300,000 for fiscal year 1976, not to exceed $1,325,000 for the transition period (July 1 through September 30, 1976), not to exceed $4,800,000 for fiscal year 1977, not to exceed $4,800,000 for fiscal year 1978, not to exceed $2,000,000 for each of fiscal year 1980, fiscal year 1981, [and] not to exceed $4,213,000 for fiscal year 1982, *and not to exceed $4,250,000 for each of fiscal years 1985, 1986, and 1987*, for the purposes and administration of this [title], *title (other than section 104A (d) (1))*, and for succeeding fiscal years only such sums as the Congress may authorize by law.

[SEC. 112. The Administrator shall on or before February 1 of each year report to the Congress on the administration of this title during the preceding fiscal year, including recommendations for additional legislation if deemed necessary.]

SEC. 112. In March of each year, the Administrator and the Secretary shall each individually report to the Congress on the administration of this title during the previous calendar year.

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ACT OF NOVEMBER 4, 1977

AN ACT To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations to carry out the provisions of such Act for fiscal year 1978

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[SEC. 4. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the "Administrator") shall end the dumping of and industrial waste sewage sludge into ocean waters, or into waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972, as soon

as possible after the date of enactment of this section, but, except as provided in subsections (b) and (c), in no case may the Administrator issue any permit, or any renewal thereof (under title I of such Act of 1972) which authorizes any such dumping after December 31, 1981.]

(a) The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") shall—

(1) end the dumping of harmful municipal sludge into ocean waters or into waters described in section 101(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 as soon as possible after the date of the enactment of the Ocean Dumping Amendments Act of 1984, except that in no case may any dumping of harmful municipal sludge—

(A) occur after the last day of the 18-month period beginning on the date of the enactment of such Amendments Act of 1984; or

(B) be authorized under such Act of 1972 for other than an eligible authority within the meaning of section 104A(a)(3) of that Act; and

(2) end the dumping of industrial waste into such waters, except as provided in subsections (b) and (c).

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(d) For purposes of this section—

[(1) the term "sewage sludge" means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, and economic potentialities; and]

(1) The term "harmful municipal sludge" means municipal sludge (as defined in section 3(n) of such Act of 1972) the ocean dumping of which may be harmful to human health, welfare, amenities, or the marine environment, ecological systems, and economic potentialities. Municipal sludge shall be considered to be harmful, for purposes of this section, if it fails to meet the environmental impact criteria of the Environmental Protection Agency's regulations issued under title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

(2) [the] *The* term "industrial waste" means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, and economic potentialities.

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